



St. Bernard Parish Council

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December 15, 2015

LOUISIANA ETHICS ADMINISTRATION PROGRAM

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Re: Hon. Howard Luna - La. R.S. § 42:1120

Dear Ethics Board:

We, the St. Bernard Parish Council ("Council"), write to you and request an opinion concerning the Hon. Howard Luna Councilman elect District "C." In the recent election, Mr. Luna won the District "C" seat on the St. Bernard Parish Council (the governing authority for St. Bernard Parish). Mrs. Charlotte Luna, wife Howard Luna, is currently serving as our manager of animal control. She has worked for St. Bernard Parish Government ("SBPG") since May of 2013. The council tenders several questions to you concerning votes Mr. Luna may he may be required to make as a councilman.

1. May Mrs. Luna maintain her employment with SBPG?

The nepotism law forbids the employment of immediate family members of the governing authority. La. R.S. 42:1119. However, state law provides an exception to this section if the employee "has been employed in the agency for a period of at least one year prior to" the employee's family member taking office. La. R.S. 42:1119 (C)(2).

As Mrs. Luna has been employed since 2013, which is over one year prior to 2016, we assume the exception applies. This would allow Mrs. Luna to keep her employment.

2. May Mr. Luna cast a vote for the adoption of any budget that includes the salary of Mrs. Luna?

At the end of each fiscal year the council must adopt an annual operating budget for the next fiscal year. H.R.C. § 5-02. This budget includes the salary and compensation of all SBPG employees. The vote implicates La. R.S. 42:1112, which prohibits a public servant

from participating in a transaction an immediate family member would benefit from. Mrs. Luna salary would be included in the final budget adoption.

If Mr. Luna cannot cast vote may this be cured by following La. R.S. 42:1120? Assuming Mr. Luna is able to cast a vote on this matter that is "fair, objective and in the public interest."

3. May Mr. Luna cast a vote on any budgetary item that does not include the salary or compensation of Mrs. Luna?

Throughout a councilman's term they are often required to amend the annual operating budget. These amendments can add or reduce funding for departments. This can impact the amount of monies the department can expend on everything from pencils to professional service agreements. As the head of Animal Control, Mrs. Luna has administrative control over the animal control's budget. She determines the proper and most judicious expenditure of public dollars. The question is: May Mr. Luna cast a vote on an item that amends any other line item in animal control NOT including the salary or compensation of Mrs. Luna?

Animal control is funded by the "General Fund." This means there is not a dedicated millage or funding source for the department. It derives its funding from general government funding sources. Any amendment to the general fund would impact the availability of funds for animal control or Mrs. Luna's salary. The question is: May Mr. Luna cast a vote on an item that amends the budget for departments that gather revenue from the general fund?

If Mr. Luna cannot cast vote may this be cured by following La. R.S. 42:1120? Assuming Mr. Luna is able to cast a vote on this matter that is "fair, objective, and in the public interest."

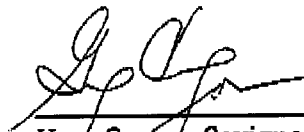
4. May Mr. Luna cast a vote on any ordinance that affects SBPG employees generally?

The council must often make decisions that impact all of SBPG employees equally. The best example of this is the personnel rules. The personnel rules provide for the hiring, firing, pay plan, promotions, discipline, pay increase, and any other personnel related issue for SBPG employees. As an SBPG employee, Mrs. Luna is impacted by these decisions along with all other SBPG employees.

If Mr. Luna cannot cast vote may this be cured by following La. R.S. 42:1120? Assuming Mr. Luna is able to cast a vote on this matter that is "fair, objective, and in the public interest."

Finally, due to impending inauguration of the 2016 Council, we ask that this opinion be expedited to ensure we have the proper guidance moving forward into the new term.

Sincerely,



Hon. George Cavignac
Councilman -At-Large West
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